



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,356	02/10/2004	Jian Wang	03-40084-US	1147

26418 7590 01/31/2007
REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

EXAMINER

CHAPEL, DEREK S

ART UNIT	PAPER NUMBER
----------	--------------

2872

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/775,356	Applicant(s) WANG, JIAN	
	Examiner Derek S. Chapel	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 and 39-55 is/are pending in the application.
- 4a) Of the above claim(s) 26-31, 37, 40-49 and 52-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 32-36, 39, 50 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status Of Claims

1. This Office Action is in response to an amendment received 11/16/2006 in which Applicant lists claims 26-31, 37, 40-49 and 52-55 as being withdrawn, claim 38 as being cancelled, claims 2-13, 15, 18-25, 32-36 and 51 as being original, and claims 1, 14, 16-17, 39 and 50 as being currently amended. It is interpreted by the examiner that claims 1-25, 32-36, 39 and 50-51 are pending.

Drawings

2. The remarks regarding the drawings, received on 11/16/2006, were considered and found to be persuasive. The objections to the drawings cited in the office action mailed 8/17/2006 are hereby withdrawn.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation "wherein said device has an extinction ratio greater than approximately 100 in transmission over the entire wavelength range of 390 nm to 1650 nm" claimed in claims 1 and 50 and the limitation "said device has a transmittance greater than 0.50 over the entire wavelength range of 390 nm to 1650 nm" claimed at the end of claim 39 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. The amendments to the claims dated 11/16/2006 are accepted. The objections to the claims cited in the office action mailed 8/17/2006 are hereby withdrawn.
5. Claims 1-25, 32-36, 39 and 50-51 recite the limitation "wherein said device has an extinction ratio greater than approximately 100 in transmission over the entire wavelength range of 390 nm to 1650 nm" at the end of claims 1 and 50 and recite the limitation "said device has a transmittance greater than 0.50 over the entire wavelength range of 390 nm to 1650 nm" at the end of claim 39. There is insufficient antecedent

Art Unit: 2872

basis for this limitation in the claim. Claims 2-25, 32-36, 39 and 51 are objected to for inheriting the same informalities through their dependency from claims 1 and 50. It is noted by the examiner that for the purpose of this examination "wherein said device has an extinction ratio greater than approximately 100 in transmission over the entire wavelength range of 390 nm to 1650 nm" is interpreted to be "wherein said device has an extinction ratio greater than approximately 100 in transmission over the entire wavelength range of 390 nm to 1600 nm" and "said device has a transmittance greater than 0.50 over the entire wavelength range of 390 nm to 1650 nm" is interpreted to be "said device has a transmittance greater than 0.50 over the entire wavelength range of 390 nm to 1600 nm".

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-25, 32-36, 39 and 50-51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 50 recite the limitation "wherein said device has an extinction ratio greater than approximately 100 in transmission over the entire wavelength range of 390 nm to 1650 nm" however,

there is not support for the range of 390 nm to 1650 nm (see figure 3 and paragraph [31] of the instant application) but rather there is support for the range of 390 nm to 1600 nm. Further, claim 39 recites the limitation "said device has a transmittance greater than 0.50 over the entire wavelength range of 390 nm to 1650 nm" however, there is not support for the range of 390 nm to 1650 nm (see paragraph [31] of the instant application) but rather there is support for the range of 390 nm to 1600 nm. Claims 2-25, 32-36, 39 and 51 are rejected for inheriting the same informalities through their dependency from claims 1 and 50.

Response to Arguments

8. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Chapel whose telephone number is 571-272-8042. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gracie Chapel

DSC

1/24/2007

Arnel Lavarias
ARNEL LAVARIAS
PRIMARY PATENT EXAMINER